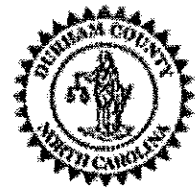




Durham City-County Planning Department

SITE PLAN
D1100118

Rev. 04/2010



MINOR AND MAJOR SPECIAL USE PERMIT (SUP) APPLICATION

(A Pre-submittal conference must be held prior to submission)

Tracking Information (Staff Only)

Case Number: **M1100003**

Date/Time rec'd: **9.6.2011**

Rec'd by: **[Signature]**

About this Application

ONLY COMPLETE APPLICATIONS CAN BE ACCEPTED

Minor special use permits are heard by the Board of Adjustment as a quasi-judicial public hearing. *Major special use permits* are heard by the Governing Body (City Council if City, Board of Commissioners if County) as a quasi-judicial public hearing.

Submittal: Applications are due by noon on the submittal deadline date. Deadlines are discussed at the pre-submittal meeting and are available online at <http://www.durhamnc.gov/departments/planning/boa/>. Applications should be submitted in-person, and fees are due at time of submittal.

The application is a form of written testimony, and used both to show how Ordinance considerations are addressed and to provide evidence that the required findings for approval can be made. In addition to the application materials, the applicant may provide any other written, drawn or photographed material to support his/her request and as permitted by the Board of Adjustment or Governing Body, as applicable. Any such additional material submitted will become part of the application, and as such cannot be returned.

Attendance at the hearing is required. Applicants may represent themselves or may be represented by someone appropriate for quasi-judicial public hearings. The applicant has the **burden of proof** and must provide sufficient evidence in order for the required findings to be made. The public hearing will allow the applicant, proponents, opponents and anyone else the opportunity to testify in regards to the request. An application may be approved, approved with conditions, continued for more information, or denied. **Decisions can be appealed to Superior Court within 30 days.**

Contact Information: If you have any questions, please contact the City-County Planning Department at 560-4137 between 8:00 a.m. and 5:00 p.m. on weekdays.

Application Requirements

Applicant Initial

Staff Initial

Record of the pre-submittal meeting (copies provided at the meeting)

[Signature]

[Signature]

Fee

[Signature]

[Signature]

Completed application and responses: ORIGINAL signatures required

[Signature]

[Signature]

(SITE PLAN) (full size and 11x17 already submitted for review) or PLOT PLAN, as determined at pre-submittal meeting

[Signature]

[Signature]

Responses to general findings and review factors: Section 3.9.8A and B of the UDO

[Signature]

[Signature]

Responses to Additional Findings and/or Review Factors, as applicable

[Signature]

[Signature]

Responses to Limited Use Standards, as applicable

[Signature]

[Signature]

Floorplan, as applicable

N/A

N/A

Elevations, as applicable

N/A

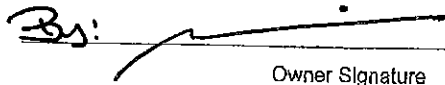
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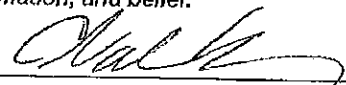
Note: Additional supporting documents may also be submitted

[Signature]
9.11.11
PDF

Case # M1100003

| Property Information | |
|---|--|
| Site Address: 1010 N. Miami Boulevard | PIN(s): 0831-12-86-7423 |
| Zoning District(s): cc Commercial Center | PID(s): |
| Overlay District(s): N/A (F/J-B) | SUP Type: <input type="checkbox"/> Minor (msup) <input checked="" type="checkbox"/> Major (MSUP). |
| Current Use: Fast food restaurant w/ drive-thru | <input checked="" type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Both |

| Property Owner | |
|---|-------------------------------------|
| Name(s) (Print): Village Realty, LLC | Telephone: 919-846-4046 |
| Contact Person: Jonathan Gaines | Email: jgaines@rivercrestrealty.com |
| By:  Owner Signature <u>Manager</u> | Date <u>9-6-11</u> |

| Applicant | |
|---|---|
| Name(s): McDonald's USA, LLC | |
| Contact Person: | Telephone: 919-876-9716 |
| Address: 4601 Six Forks Rd., Suite 200 | Fax: 919-326-4215 |
| City/State/ZIP: Raleigh, NC 27609 | Email: scott.thompson@us.mcd.com |
| I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief. | |
|  Nadine Perry Applicant Signature | <u>9/6/11</u> US Regional Construction Mgr. Date |

| Agent (if different than applicant) | |
|-------------------------------------|------------------------------|
| Name: Commercial Site Design, PLLC | |
| Contact Person: Brian T. Soltz | Telephone: 919-848-6121 |
| Address: 8312 Creedmoor Road | Fax: 919-848-3741 |
| City/State/ZIP: Raleigh, NC 27613 | Email: soltz@csitedesign.com |

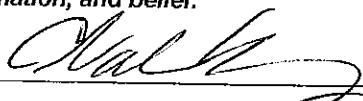
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| | |
|--------------------------|---------------|
| Name(s) (Print): | Telephone: |
| Contact Person: | Email: |
| | |
| _____ Owner Signature | _____ Date |

Applicant

| | |
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Applicant's Name: I, McDonald's USA, LLC,, do hereby petition the City of Durham/County of Durham for a Major Special Use Permit to allow the following:

Redevelopment of existing McDonald's with request for approval of development within area of shallow flooding (Zone AO)

Relevant Sections of the Unified Development Ordinance:
Sections 3.9.7, 3.9.8, 5.3.4I and 8.4.4D

Note: Before any Major Special Use Permit shall be granted, the Governing Body must find that satisfactory evidence has been provided for the following. Your site plan, application and testimony at the hearing must provide sufficient evidence for the Governing Body to determine that these general findings and review factors have been adequately and appropriately addressed.

Please respond to the following in the space provided, or with an attachment.

Section 3.9.8: Criteria for Approval of Major Special Use Permits

A. General Findings

Applications for major special use permits shall be approved only if the Governing body finds that the use as proposed, or the use as proposed with conditions, is:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;

The surrounding area is developed with a variety of uses including food service, a shopping center, a pharmacy, general retail and gas stations. The redevelopment of the McDonald's is in harmony with these surrounding uses and will not be substantially injurious to the value of properties in the general vicinity.

2. In conformance with all special requirements applicable to the use;

The project will be in compliance with all local, state, and federal regulations. This project also will adhere to any special conditions of approval that may be placed on project during the site plan approval process. The special requirements contained in UDO Section 8.4.4D.1.a and b are addressed below.

The Limited Use Standards for this use which contains a drive-through facility are stated in UDO Section 5.3.4I. The site plan for this project will comply with all of these limited use standards, which require the following:

- 1. The site is separated from residentially zoned property by existing streets;*
- 2. The location of drive-through windows and associated facilities are identified on*

- this project's site plan;*
3. *Any speaker system associated with this drive-thorough facility shall be designed and located so as not to adversely affect adjacent uses; and*
 4. *The landscaping shall be installed and maintained along the entire length of the drive-through lane and the adjacent roadway, in accordance with UDO standards and as shown on the site plan.*

3. Will not adversely affect the health or safety of the public; and

The proposed redevelopment will not adversely impact the health or safety of the public as there will be no significant increase in traffic generated by the project. In addition, a significant portion of the on-site impervious surface (approximately one-fifth of an acre) will be removed in connection with this proposed redevelopment, and therefore a decrease in impervious surface will occur if this Major Special Use Permit is approved. Perhaps most important, the inclusion of new BMP measures to treat stormwater runoff will provide additional benefit to the public in terms of reducing both the quantity of stormwater runoff and the amount of nutrients and pollutants in storm water runoff from the site, since there is not any stormwater treatment occurring now due to the age of the existing development.

4. Will adequately address the review factors identified below.

See below.

5. For MTC buffer adjustments *only*, these additional issues must be considered too for a request to reduce buffer width and the amount of landscape material:

1. Topography of the area

N/A

2. The size of the parcel

N/A

B. Review Factors

The applicant shall demonstrate that the review factors listed below have been adequately addressed.

1. Circulation

Number and location of access points to the property and the proposed structures and uses, with particular reference to automotive, bicycle, mass transit and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

This redevelopment will comply with all conditions of approval from review agencies and will

meet all ordinance requirements and applicable regulations. With the redevelopment of this site, an existing driveway on Miami Blvd. will be removed, thereby improving the safety of vehicular movements in the vicinity of the site. Accordingly, all access connections to the site will be provided from existing driveways that serve the Wellons Village shopping center. The site is adjacent to existing mass transit and public sidewalk. In addition, enhanced pedestrian connections to the public right-of-way and new bicycle parking spaces will be provided.

2. Parking and Loading

Location of off-street parking and loading areas.

The proposed redevelopment provides for adequate parking spaces and accompanying drive aisles, while reducing the amount of impervious surface areas and stormwater runoff. The proposed site plan also ensures that adequate turning radiuses and widths are provided to ensure proper maneuverability for both emergency and service vehicles. The plan complies with city parking and loading requirements.

3. Service Entrances and Areas

Locations of refuse and service areas with particular reference to ingress and egress of service vehicles.

Refuse collection is proposed to the rear of the site and will be fully enclosed with masonry materials matching the proposed building. Access for service vehicles will be adequately provided with the redevelopment.

4. Lighting

Locations of exterior lighting with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

Parking area lighting will meet the UDO requirements while also providing on-site safety to the customers. The site is located in a long-developed urban area with street lights and parking lot lighting adjacent to the site within the existing shopping center. With the redevelopment of this property, new lighting is proposed which will be compatible with the surrounding properties.

5. Signs

Appropriateness of signs considering location, color, height, size, and design within the context of other property in the area.

The proposed redevelopment will require demolition of the existing ground sign and inclusion of a new ground sign to meet current city standards as depicted on the site plan. Directional signs also will be replaced throughout the parking areas to direct customers around the property in a safe manner. The proposed signs will comply with the city's current development standards in regards to color, height, size and design. The signs also will be consistent with the surrounding properties.

6. Utilities

Location and availability of utilities.

No public extensions of utilities are necessary for the redevelopment of the site. Existing and new utility service laterals will be provided to the new building via the existing onsite utilities.

7. Open Spaces

Location of required yards and other open spaces and preservation of existing trees and other natural features.

The proposed redevelopment does not impact any natural features. The new development will comply with all required yards and will provide all required landscaping in accordance with the UDO requirements for the Urban Tier.

8. Environmental Protection

Preservation of tree cover, Durham Inventory Sites, floodplain, stream buffers, wetlands, steep slopes, open space and other natural features, and protection of water quality.

The site is located in a highly developed, long urbanized area of Durham. Within this project site, there are no existing natural features, stream buffers, steep slopes or wetlands. This redevelopment will have a marginal, insignificant impact on the Zone AO, area of shallow flooding as the redevelopment is designed to protect against the rise and flow of flood waters. To achieve this protection, the principal and accessory structures are raised above flood elevations in accordance with applicable City of Durham regulations. Additionally, the project provides for adequate drainage paths to guide floodwater away from these structures. Most important, this redevelopment will include water quality enhancements by providing underground sand filters that will treat effectively the stormwater runoff from the redeveloped site, thus releasing cleaner water than is released under current conditions. Accordingly, the applicant will provide competent, expert testimony that this redevelopment provides a better balance between overall efficiency of the site design and the improved conservation elsewhere on the site.

The better balance will be achieved through a reduction of impervious surface area from current conditions of 51,179 square feet down to 42,088 square feet, a reduction of 9,091 square feet, or more than one-fifth of an acre. This reduction of impervious surface area within the project site will be discussed in greater detail under UDO Section 8.4.4D1.a below. This reduction in impervious surface will lead to improved conservation by reducing stormwater runoff from the site by nine percent (9%) during the one-year storm event. The enhanced landscaping, as shown on the site plan, reflects a significant increase from the existing conditions, and this will contribute to improved conservation as well.

9. Screening, Buffering and Landscaping

Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property.

The project will comply with UDO requirements for screening and buffering by providing a

vehicular use area buffer adjacent to both Miami Blvd. and Holloway Street. The project also proposes new vegetation throughout the site to adhere to the internal vehicular use area landscaping requirements. The additional landscaping will enhance the aesthetics of the project site and the overall appearance of the Wellons Village shopping center.

10. Effect on Adjacent Property

Effects of the proposed use on nearby property, including, but not limited to, the effects of noise, odor, lighting, and traffic.

There will be no significant effects on adjoining properties as the redevelopment is consistent with the current use of the site and in harmony with the uses on adjoining properties.

11. Compatibility

The level of general compatibility with nearby properties and impacted neighborhoods, including but not limited to the appropriateness of the scale, design, and use in relationship to other properties.

As the project is within a highly developed Urban Tier commercial area with similar adjacent uses, the site will remain compatible with the surrounding properties and uses after this redevelopment. The scale and design of the new building is compatible with surrounding development.

12. Consistency with Policy Consistency with the Comprehensive Plan and applicable development tier guidelines, overlay purposes, and zoning district intent statements in Article 4, Zoning Districts.

The City of Durham Development Tier Map places this site and the surrounding area within the Urban Tier. Section 4.1.2a3 of the Durham Comprehensive Plan states, "[w]ithin this area, development should maintain an urban form with small lot sizes and differing uses in proximity to one another." The area in the general vicinity is developed with a variety of uses including auto service, drug store, food services and other retail business. The area is also served by heavily traveled thoroughfares. Accordingly, approval of this Special Use Permit for this redevelopment is in keeping with both the existing uses and those intended for the area.

13. Other Factors

Any other review factors which the approving authority considers to be appropriate to the property in question.

NOTE: Please address the requirements of any applicable "Limited Use Standards" or other special requirements of the use as an attachment of the application.

12. Consistency with Policy Consistency with the Comprehensive Plan and applicable development tier guidelines, overlay purposes, and zoning district intent statements in Article 4, Zoning Districts.

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13. Other Factors

Any other review factors which the approving authority considers to be appropriate to the property in question.

NOTE: Please address the requirements of any applicable "Limited Use Standards" or other special requirements of the use as an attachment of the application.

In granting a Major Special Use Permit, the Governing Body may place conditions on the use to assure that adequate mitigation measures are associated with the use. The applicant must follow all special requirements and conditions in order to maintain the validity of the use permit. Major Special Use Permits are revocable at any time for failure to adhere to the terms of the Unified Development Ordinance or any imposed requirements or conditions. All conditions imposed by the Governing Body shall be completed prior to issuance of a Certificate of Compliance.

Furthermore, a Major Special Use Permit shall become null and void in any of the following cases:

- A. If a site plan is not approved within 12 months of the date of permit approval.
- B. If an approved site plan or building permit expires.
- C. If a building permit is not issued within two years of the date of approval, in cases where a site plan is not required.
- D. If a substantial violation of the conditions of the permit, as determined by the Planning Director or designee occurs. The addition of language to the special use permit regarding such voiding shall not be required.


Applicant Signature


Date

**ADDITIONAL MAJOR SPECIAL USE PERMIT REVIEW FACOTRS
AND FINDINGS FOR DEVELOPMENT WITHIN SPECIAL FLOOD
HAZARD AND FUTURE CONDITIONS FLOOD HAZARD AREAS**

Section 3.9.8C Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas (Floodway Fringe, Non-Encroachment Area Fringe, and Areas of Shallow Flooding [Zone AO] Only)

Additional Review Factors: The applicant for a major special use permit under this section shall demonstrate that the additional review factors listed below have been adequately addressed. If the application is denied, the governing body shall specify which of these review factors, if any, were not adequately addressed.

- a. Susceptibility of the proposed facility, structure, or other development and its contents to flood damage and the effect of such damage on the individual property owner and others as a result of flood damage;

The proposed redevelopment is designed to protect against the rise and flow of floodwater. To achieve this protection, the principal and accessory structures will be raised above flood elevation. The redeveloped site is designed with adequate drainage paths to guide floodwater away from all structures on site. The redevelopment of the site will reduce the amount of existing impervious surface. Specifically, the project site contains 57,905 square feet and the existing impervious surface amounts to 51,179 square feet. The new McDonald's and accompanying parking will contain only 42,088 square feet of impervious surface, and that yields a reduction of impervious surface equal to 9,091 square feet, more than one-fifth of an acre. Accordingly, the removal of 9,091 square feet of impervious surface will result in reducing stormwater runoff, which in turn will reduce downstream impacts from current conditions. In summary, approval of this major special use permit will reduce the volume of stormwater runoff from this site during a one-year storm event by nine percent (9%). This reduction in stormwater volume clearly reduces the susceptibility of the proposed redevelopment and other development to flood damage.

- b. Importance of the services provided by the proposed facility, structure, or other development to the community;

The proposed redevelopment provides both the City of Durham and nearby neighborhoods with a reinvestment in the local community, which means continued opportunities for employment and increased tax base. In addition, the redevelopment will comply with current development standards specified with the UDO, as well as community objectives such as improved treatment of stormwater runoff, reduction of impervious surface area, improved vehicular circulation at a busy intersection and new, enhanced landscaping on the site. Implementation of these improvements is not possible without approval of this Major Special Use Permit.

- c. Necessity to the facility, structure, or other development of a waterfront location, where applicable;

N/A

- d. Compatibility of the proposed use with existing and anticipated development;

The proposed use is consistent with the other commercial development in the area and the City of Durham's Future Land Use Map.

- e. Safety of access to the property in times of flood for ordinary and emergency vehicles;

The driveways into the Wellons Village shopping center from Miami Blvd. that will provide access into the redeveloped site are outside the 100 year base elevation area of shallow flooding [Zone AO]. The drive aisles around the new McDonald's building also will be above the 100 year base elevation of the Zone AO. Lastly, all primary and accessory structures are proposed to be at least four feet above the base flood elevation as required by the City's floodplain regulations. These design elements will insure safe access to the property in the event flooding occurs.

- f. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

The base flood elevation is 336.30 and the proposed building, accessory structures and a majority of the parking area will be above this base flood elevation. The applicant will provide competent expert testimony that the proposed redevelopment will have negligible effect on the current conditions in regard to floodwater height, velocity, duration, rate of rise, sediment transport, and that the effects of wave action will be minimal and limited in the expansion area. Specifically, experienced stormwater and structural engineers will testify that within in the Zone AO, area of shallow flooding, floodwater height, duration and rate of rise should be marginally insignificant from existing conditions. In regard to floodwater velocity, our understanding is that velocity is a non-factor in Zone AO, since the Zone AO, area of shallow flooding, functions like a large puddle, and there is not any floodway on the site. Sediment transport will be significantly improved due to the installation of on-site water quality treatment facilities in conjunction with the removal of a significant portion of impervious surface, as one-fifth of an acre within this 1.33 acre redevelopment will become pervious, landscaped area instead of the existing asphalt.

It is important to note that the category of floodplain affecting a portion of this redevelopment is the Zone AO, area of shallow flooding, and so there is no floodway fringe along side a floodway at this site. Zone AO denotes an area of shallow flooding, and this Zone AO covers a significant portion of Wellons Village. During a significant storm event, the area covered by this Major Special Use Permit application, and a much larger area within Wellons Village, acts like a large puddle as opposed to a rushing

stream. There appears to be no floodway within two hundred and fifty feet (250') of this proposed redevelopment.

- g. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;

No publicly owned improvements or facilities are located within this redevelopment of privately owned property.

- h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area; and

The redevelopment of the McDonald's is in compliance with Objective 7.1.3, Floodplain Protection, of the Durham Comprehensive Plan due to the fact that this redevelopment will reduce impervious surface in a highly developed urban area and stimulate a significant improvement in water quality at this site. All necessary floodplain development permits have been applied for so that this redevelopment can move forward.

- i. Any other relevant factors, technical evaluations, or standards specified in other sections of this ordinance.

Approval of this Major Special Use Permit is based on the site's compliance with applicable sections of the UDO, including the criteria set forth in UDO Sec. 8.4.4D.1a & b (see below for explanation of compliance with required additional findings). Moreover, the Development Review Board must review and approve certain aspects of the redevelopment pursuant to UDO Sec. 8.4.4C. In addition, the cumulative results from reduced impervious surface, increased water quality treatment, enhanced pedestrian connectivity, improved traffic safety and additional landscaping provide for quality redevelopment and reinvestment in the City of Durham.

Last, this redevelopment shall meet the City of Durham's current stormwater regulations by installation of stormwater sand filter facilities which will result in enhanced water quality by reducing nitrogen and phosphorus export and removal of 85% of total suspended solids (TSS).

Additional Findings:

Section 8.4.4D.1: Fill or Development in the Floodway Fringe or Non-Encroachment Area Fringe

Fill or development (e.g., parking or floodproofing or elevation by design) in the floodway fringe, non-encroachment areas fringe, or Areas of Shallow Flooding (Zone AO) that is not authorized above is not permitted unless it is in support or otherwise permissible uses and authorized by a major special use permit issued under Sec. 3.9, Special Use Permit, and provided that the appropriate governing body finds that:

- a. The proposed fill or development provides for a better balance between overall efficiency of the site design, and improved conservation elsewhere on the site than would be possible without intrusion into the floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO).

The proposed redevelopment provides for a better balance of overall site design efficiency while also providing for flood protection of structures and other surrounding improvements, and the improved conservation elsewhere on the site results in key benefits which include reduced impervious surface, decreased stormwater runoff, enhanced landscaping and significantly improved water-quality treatment with this redevelopment.

To address water quality treatment specifically, it is important to note there is zero on-site water quality treatment occurring today due to the age of this development. With approval of this Major Special Use Permit, the redevelopment will meet all current City of Durham water-quality standards. The existing nitrogen loading is 17.65 pounds per acre per year and phosphorus loading of 1.52 pounds per acre per year. The stormwater infrastructure to be built after approval of this Major Special Use Permit will result in on-site treatment and reduction to 8.17 pounds of nitrogen per acre per year and 0.85 pounds of phosphorus per acre per year. In addition, the redevelopment also will meet the City of Durham's standards for Total Suspended Solids (TSS), so that eighty-five percent (85%) of TSS are treated on-site, within the 1.33-acre project area.

Additionally, there is a significant reduction in impervious surface area within this project site, so that more than one-fifth of an acre of impervious surface will be removed (9,091 square feet). In addition, traffic circulation and safety is improved for this McDonald's, as the curb cut directly on to Miami Blvd. will be removed, and access to the redevelopment only will be from within the Wellons Village shopping center.

- b. The proposed fill or development represents the minimum amount of floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO) intrusion to achieve this better balance.

The proposed redevelopment represents the minimum amount of intrusion possible into the Zone AO floodplain. Areas that are not required to be above the base flood elevation, such as the rear portion of the parking lot, will remain below the base flood elevation. As noted earlier, the Zone AO floodplain acts more like a large puddle than a flowing stream, as could occur with development in the floodway fringe adjacent to the floodway, which potentially creates more adverse impacts.

In order to meet the functionality necessary with the drive-through lanes that circulate around the proposed building, the new building is set back from the Miami Boulevard right of way as shown on the site plan and in conformance with UDO nonresidential development standards applicable to the CC zone within the Urban Tier. Also, the proposed site plan eliminates the access drive that accesses the existing McDonalds

directly from Miami Boulevard. Access to McDonald's new building only will be from access drives into the Village Shopping Center, and so the circulation pattern with two vehicle lanes for access and the drive-through results in the set back from Miami Boulevard and Holloway Street shown on the site plan. Moreover, the need for the additional parking area between the proposed McDonalds and the existing mall building requires that the new building have convenient pedestrian connectivity, and shifting the building closer to Miami Boulevard and Holloway Street would compromise this pedestrian connectivity. Accordingly, moving the building to the south and west, closer to Miami Boulevard and Holloway Street, is not practical. In conclusion, the wide range of benefits that accrue to the City of Durham from approval of this special use permit demonstrate that a better balance occurs from allowing this redevelopment to move forward, as compared to the continued use of the antiquated structure currently in this location.